

HOUSE BILL 1243

By Clemmons

AN ACT to amend Tennessee Code Annotated, Title 5;  
Title 6; Title 7; Title 9; Title 54; Title 55 and Title  
67, relative to revenue.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-3-201(a), is amended by deleting the language "twenty cents (20¢)" and substituting instead the language "twenty-five cents (25¢)".

SECTION 2. Tennessee Code Annotated, Section 67-3-202(a), is amended by deleting the language "seventeen cents (17¢)" and substituting instead the language "twenty-six cents (26¢)".

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 3, Part 2, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Rate of inflation" means the percentage of change in the average consumer price index (all items-city average) as published by the United States bureau of labor statistics, for the immediately preceding calendar year; and

(2) "State's population growth rate" means the percentage of change in the population of this state from the previous fiscal year, as measured by the United States census bureau population estimates.

(b) Beginning on July 1, 2018, and on July 1 in subsequent years, the rates of the taxes imposed pursuant to §§ 67-3-201 and 67-3-202, shall be the amounts for the preceding fiscal year, multiplied by a percentage. The percentage is one hundred percent (100%) plus or minus the sum of the following:

(1) The state's population growth rate, multiplied by seventy-five percent (75%); and

(2) The rate of inflation, multiplied by twenty-five percent (25%).

(c) The department of revenue shall notify taxpayers of any change in rates made pursuant to this section and post the information in a readily identifiable location on the department's website.

SECTION 4. Tennessee Code Annotated, Section 67-3-201(a), is further amended by deleting the language "Subject to exemptions provided in" and substituting instead the language "Subject to Section 3 of this act and the exemptions provided in".

SECTION 5. Tennessee Code Annotated, Section 67-3-202(a), is further amended by deleting the language "Subject to exemptions provided in" and substituting instead the language "Subject to Section 3 of this act and the exemptions provided in".

SECTION 6. Tennessee Code Annotated, Section 67-3-901, is amended by adding the following as a new subsection:

(l) All revenues from the increases in taxes imposed by Sections 1-3 of this act, shall be distributed to the highway fund.

SECTION 7. Tennessee Code Annotated, Title 67, Chapter 6, Part 1, is amended by adding the following language as a new section:

(a) As used in this section:

(1) "Commissioner" means the commissioner of finance and administration;

(2) "Department" means the department of finance and administration;

(3) "Eligible county" means any county within a transportation services district that is engaged in the financing, planning, development, implementation, operation, or maintenance of any transportation services, facilities, or systems provided wholly or partly within the county; and

(4) "Transportation services district" means any area in which existing or future transportation services, facilities, or systems are or will be provided, and which boundaries of the area consists of any county having a metropolitan form of government and having a population of more than five hundred thousand (500,000) and contiguous counties having the following populations, according to the 2010 federal census or any subsequent federal census:

not less than:	nor more than:
39,100	39,200
49,550	49,675
66,200	66,300
113,900	114,000
160,600	160,700
172,300	172,400
183,100	183,200
262,600	262,700

(b) In any fiscal year, if the total state sales and use tax revenue derived from within the boundaries of a transportation services district exceeds the state sales and use tax revenue estimate budgeted for that fiscal year from within the district, then the amount of the surplus revenue shall be apportioned and distributed to any eligible county, upon approval of an application pursuant to this section, in an amount equal to that portion of the surplus revenue derived from the sale of goods, products, and services within that eligible county.

(c) To receive an allocation of state sales and use tax revenue under this section, an eligible county must submit a completed application to the commissioner together with an application fee in an amount established by the department. The

application shall be developed by the department, and shall include the following information:

(1) A description of the financing for the transportation services, facilities, or systems to be provided wholly or partly within the county;

(2) The estimated or actual development and construction costs of the transportation services, facilities, or systems to be provided wholly or partly within the county;

(3) A certification from the county that it complies with the criteria required to be eligible;

(4) A resolution from the governing body of the eligible county requesting approval of the application and acknowledging that the surplus revenue will be applied as payments on the indebtedness related to financing the transportation services, facilities, or systems;

(5) An affidavit, on a form provided by the department, signed by the applicant certifying that the proposed financing, planning, development, implementation, operation, or maintenance of the transportation services, facilities, or systems cannot proceed or be completed without the availability of financing under this section along with supporting documentation establishing the need for and the amount of the financing; and

(6) Such financial and other information as may be necessary for the commissioner to evaluate the application.

(d) No action shall be taken with respect to an application until the commissioner determines that the commissioner has received all information that may be relevant or necessary in determining the qualifications of the applicant.

(e) Prior to approving the application, the commissioner must determine that the transportation services, facilities, or systems are not economically feasible without the tax revenue allocation contemplated in this section. In evaluating the information submitted with the application the commissioner may consider normal underwriting criteria such as debt capacity, ability to repay, equity and other capital at risk for the project, and the proposed terms of the contemplated indebtedness.

(f) The tax revenue allocation available pursuant to this section applies to eligible counties that have filed an application with the commissioner of finance and administration and have received the approval of the commissioner.

(g) The amount of surplus revenue distributed shall be for the exclusive use of the eligible county and shall be used solely for the purpose of paying the indebtedness, principal and interest, and closing costs incurred by the county in the financing, planning, development, implementation, operation, or maintenance of the transportation services, facilities, or systems in the county. The period for the distribution shall be twenty (20) years. The distribution shall cease upon the expiration of the twenty-year period or upon satisfaction of the financing of the transportation services, facilities, or systems, whichever occurs first. Following the expiration of the twenty-year period, all amounts that would have otherwise been distributed to the eligible county shall be allocated as provided elsewhere without regard to this section.

(h) Notwithstanding this section, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Section 9, Chapter 529 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Section 4, Chapter 856 of the Public Acts of 2002, shall be distributed to the eligible county for the financing contemplated in this section. The revenue shall

continue to be allocated as provided in Chapter 529 of the Public Acts of 1992, and Chapter 856 of the Public Acts of 2002, respectively.

(i) The apportionment and distribution of state sales and use taxes to the eligible county as provided in this section shall commence at the beginning of the fiscal year after the approval of the application. The apportionment and payment shall be made by the department of revenue to the county within ninety (90) days of the end of each fiscal year for which the county is entitled to receive an allocation and payment pursuant to this chapter.

SECTION 8. Tennessee Code Annotated, Title 67, Chapter 3, Part 6, is amended by adding the following new section:

**67-3-620.**

Any person not otherwise licensed under this part and engaged in the business of selling gasoline directly to a retail station in this state shall first obtain a special gasoline sale and delivery license under this chapter.

SECTION 9. Tennessee Code Annotated, Title 67, Chapter 3, Part 10, is amended by deleting the part in its entirety and substituting instead the following:

**67-3-1001.** As used in this part:

(1) "Commissioner," "department," "gallon," "gasoline," "person," and "retail station" have the same meanings as defined in § 67-3-103; and

(2) "County" means any county located in this state and includes any county having a metropolitan or consolidated form of government.

**67-3-1002.** The tax levied pursuant to this part shall be in addition to all other taxes and fees levied by this chapter.

**67-3-1003.**

(a) Any county, by resolution of its county legislative body, may levy a privilege tax not to exceed three cents (3¢) per gallon on all gasoline sold and delivered to a retail station in the county. Any resolution adopted by the county legislative body to levy the tax shall specify the rate of the tax and the purpose for which the proceeds shall be used. The resolution authorizing the tax shall not take effect unless it is approved by the voters in an election in the county as provided in § 67-3-1005.

(b) The proceeds from the tax received by a county shall be used for existing or future public transportation systems provided wholly or partly within the county or for any transportation infrastructure located wholly or partly within the county.

(c) The department shall collect the tax, which shall be computed, reported, and paid in the manner provided in § 67-3-1007.

(d) A gallon of gasoline shall be taxed only once pursuant to this part.

(e) The department shall remit the proceeds of the tax to the county levying the tax, less a reasonable amount or percentage as determined by the department to cover the expenses of administration and collection, which shall not exceed two percent (2%) of the taxes collected.

**67-3-1004.** The exemptions from taxation provided in part 4 of this chapter shall be applicable to the tax provided in this part.

**67-3-1005.**

(a) The county legislative body shall request the county election commission to submit to the voters of the county the question of levying the tax in an election to be held pursuant to this section and send a certified copy of the resolution to the county election commission.

(b) The county election commission shall call the election to be held at the next regularly scheduled county-wide election that occurs at least thirty (30) days after the

receipt of a certified copy of the resolution, for the purpose of approving or rejecting the imposition of the tax.

(c) The tax levy shall not take effect unless it is approved by a majority of the number of qualified voters of the county government voting in the election.

(d) The ballots used in the election held pursuant to this section shall have printed on them the question of whether or not to levy the tax in the following form:

For the levy of a local gasoline tax at the rate of \_\_\_\_ cents per gallon of gasoline sold and delivered to a retail station in \_\_\_\_\_ County to be used for \_\_\_\_\_ (here insert purpose of tax).

Against the levy of a local gasoline tax at the rate of \_\_\_\_ cents per gallon of gasoline sold and delivered to a retail station in \_\_\_\_\_ County to be used for \_\_\_\_\_ (here insert purpose of tax).

(e) The votes cast on the question shall be canvassed and the results proclaimed by the county election commission and certified by it to the county legislative body.

(f) The qualifications of voters voting on the question shall be the same as those required for voting in any general county election. All laws applicable to general elections shall apply to the determination of the approval or rejection of the imposition of this tax.

(g) If the majority vote is for the tax levy, the tax levy shall be deemed to be approved on the date that the county election commission makes its official canvass of the election returns. No tax shall be collected pursuant to this section until the first day of a month occurring at least thirty (30) days after the date of approval of the tax levy.

**67-3-1006.**



Any county levying the tax approved by the voters pursuant to § 67-3-1005 shall furnish a certified copy of the adopting resolution to the department within seven (7) days of its adoption by the county legislative body, and provide written notice to the department within seven (7) days of approval of the tax levy.

**67-3-1007.**

(a) The tax imposed by this part shall be measured by taxable gallons of gasoline sold and delivered to a retail station in a county.

(b) The tax shall be due and payable to, and reports shall be filed with, the department on or before the twentieth of the month following the month of activity from each person selling gasoline directly to a retail station in a county imposing this tax, regardless if the gasoline was delivered by the person's agent or any other third party. In addition to other information as the department determines is reasonably required to collect the tax under this part, the report shall include the number of gallons of gasoline sold and delivered to each retail station in any county in this state. The commissioner is authorized to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and revise or prescribe necessary forms for the collection of the tax.

SECTION 10. Tennessee Code Annotated, Title 67, is amended by adding the following as a new chapter:

**67-11-101.** As used in this chapter:

- (1) "County" means any county located in this state and includes any county having a metropolitan or consolidated form of government; and
- (2) "Municipality" means any city or town in this state.

**67-11-102.** Any county or municipality may, by resolution or ordinance approved by its legislative body, levy a transportation improvement surcharge in connection with any tax

authorized to be levied by the county or municipality pursuant to titles 5, 6, or 7, or this title. The resolution or ordinance authorizing the surcharge shall not take effect unless it is approved by the majority of the number of qualified voters of the county or municipality voting in an election on the question of whether or not the surcharge should be levied as provided in § 67-11-105.

**67-11-103.**

The use of revenue generated by the surcharge authorized by this chapter shall be limited to funding all or any part of the costs associated with the planning, development, construction, implementation, administration, management, operation, and maintenance of transportation facilities or systems serving the general public that are provided wholly or partly within the county or municipality, or of any transportation infrastructure located wholly or partly within the county or municipality.

**67-11-104.** Revenue from the surcharge may be:

(1) Combined with other funding generated by local, state, or federal governments from taxes, fees, fares, or tolls, and may be used to match state and federal grants;

(2) Combined with private monies where allowed by law; or

(3) Pledged to the payment of bonds issued for the purposes of financing transportation projects that meet the provisions of § 67-11-103.

**67-11-105.**

(a)

(1) Any ordinance approved pursuant to this section shall specify the rate of the surcharge and the purpose for which the proceeds shall be used, and require that the surcharge levied by the municipality be collected only from persons residing within the corporate limits of the municipality.

(2) Any resolution approved pursuant to this section shall specify the rate of the surcharge and the purpose for which the proceeds shall be used, and require that the surcharge levied by the county be collected only from persons residing in the county, but outside the corporate limits of any municipality.

(b) Within sixty (60) days of final approval of the ordinance or resolution by the municipal or county legislative body, the county election commission shall call an election for the municipality or county, as the case may be, on the question of whether or not the surcharge should be levied. The election shall be held at the next regularly scheduled general election that occurs at least thirty (30) days after the receipt of a certified copy of the resolution or ordinance, for the purpose of approving or rejecting the imposition of the surcharge.

(c) The ballots used in the election held pursuant to this section shall have printed on them the question of whether or not to levy the surcharge in the following form:

For the levy of a local surcharge at the rate of \_\_\_\_ in \_\_\_\_\_ (here insert name of county or municipality) to be used for \_\_\_\_\_ (here insert purpose of surcharge).

Against the levy of a local surcharge at the rate of \_\_\_\_ in \_\_\_\_\_ (here insert name of county or municipality) to be used for \_\_\_\_\_ (here insert purpose of surcharge).

(d) The votes cast on the question shall be canvassed and the results proclaimed by the county election commission and certified by it to the county or municipal legislative body.

(e) The qualifications of voters voting on the question shall be the same as those required for voting in any general county or municipal election. All laws applicable to

general elections shall apply to the determination of the approval or rejection of the imposition of this surcharge.

(f) If the majority vote is for the surcharge, the surcharge shall be deemed to be approved on the date that the county election commission makes its official canvass of the election returns. No surcharge shall be collected pursuant to this section until the first day of a month occurring at least thirty (30) days after the date of approval of the surcharge.

(g) The surcharge shall be collected in the same manner provided in titles 5, 6, or 7, or this title for the tax in connection with which the surcharge is levied.

(h) Any surcharge levied pursuant to this chapter shall remain in effect on a perpetual basis as permitted by law, unless the authorizing resolution or ordinance shall provide for a specific date or conditions for termination.

(i) Any resolution or ordinance of a county or municipality adopted in accordance with this chapter may be repealed in the same manner as provided by this chapter for its adoption.

**67-11-106.**

(a) The rate of the surcharge levied by a county or municipality under this chapter shall not separately exceed the maximum rate established for the corresponding tax authorized under title 5, 6, or 7, or this title.

(b) The surcharge levied pursuant to this chapter is a separate tax and shall be in addition to all other taxes and fees levied by a county or municipality pursuant to titles 5, 6, or 7, or this title. Any county or municipality shall levy the surcharge up to a maximum rate as provided in this section without affecting the available taxing authority and rate of taxes authorized by titles 5, 6, or 7, or this title.

SECTION 11. Tennessee Code Annotated, Section 55-4-111(a)(1), is amended by deleting the following language from the table in the subdivision:

Class (B) Passenger motor vehicle and motor home --- registration fee 18.75

and substituting instead the following language:

Class (B) Passenger motor vehicle and motor home --- registration fee 23.75

SECTION 12. Tennessee Code Annotated, Section 55-4-112(a), is amended by deleting the subsection and substituting instead the following:

(a) The registration fees for private and commercial motor vehicles operating for hire who transport passengers shall be as follows:

(1) Motor vehicles with not more than seven (7) seats for passengers \$ 47.13

(2) Motor vehicles with over seven (7) seats and not more than fifteen (15) seats for passengers 96.63

(3) Motor vehicles with over fifteen (15) seats and not more than twenty-five (25) seats for passengers 162.63

(4) Motor vehicles with over twenty-five (25) seats and not more than thirty-five (35) seats for passengers 245.12

(5) Motor vehicles with over thirty-five (35) seats for passengers 327.63

SECTION 13. Tennessee Code Annotated, Section 55-4-113(a)(2), is amended by deleting the subdivision and substituting instead the following:

(2) Private Carriers, Public Carriers and Household Goods Carriers. Every person, firm, or corporation operating, for commercial purposes, a freight motor vehicle over the roads of the state shall first register the vehicle with the department and shall pay a tax as follows, according to the indicated classes set forth in this subdivision (a)(2):

(A) Class 1. Freight motor vehicles with declared maximum gross weight, including vehicle and load, of not more than nine thousand pounds (9,000 lbs.). Registration \$ 68.50

tax

(B) Class 2. Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of sixteen thousand pounds (16,000 lbs.).

Registration tax 122.50

(C) Class 3. Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of twenty thousand pounds (20,000 lbs.).

Registration tax 327.50

(D) Class 4. Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of twenty-six thousand pounds (26,000 lbs.).

Registration tax 481.00

(E) Class 5. Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of thirty-two thousand pounds (32,000 lbs.).

Registration tax 635.00

(F) Class 6. Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of thirty-eight thousand pounds (38,000 lbs.).

Registration tax 711.00

(G) Class 7. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of forty-four thousand pounds (44,000 lbs.).

Registration tax 788.00

(H) Class 8. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of fifty-six thousand pounds (56,000 lbs.).

Registration tax 942.00

(I) Class 9. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of sixty-six thousand pounds (66,000 lbs.).

Registration tax 1,019.00

(J) Class 10. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of seventy-four thousand pounds (74,000 lbs.).

Registration tax 1,198.50

(K) Class 11. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of eighty thousand pounds (80,000 lbs.).

Registration tax 1,352.50

(L) Class 12. Fixed load vehicles, as defined in § 55-1-117, may be registered at twenty-five percent (25%) of the rate set forth in this subdivision (a)(2) for a vehicle of comparable weight;

SECTION 14. Tennessee Code Annotated, Section 55-10-416, is amended by deleting the section and substituting instead the following:

(a) It is an offense for a person in a motor vehicle that is being operated in this state to:

(1) Consume an alcoholic beverage in the passenger area of the motor vehicle; or

(2) Knowingly possess in the passenger area of the motor vehicle an alcoholic beverage container that:

(A) Is open;

(B) Has a broken seal; or

(C) The contents of which are partially removed.

(b) Subsection (a) shall not apply if:

(1) A passenger consumes an alcoholic beverage or possesses an alcoholic beverage container:

(A) In the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) In the living quarters of a motor home, truck camper, house trailer, or other similar recreational vehicle; or

(2) The container is located:

(A) In a closed and locked glove compartment; or

(B) If the motor vehicle is not equipped with a trunk, in the area behind the last upright seat or in an area not normally occupied by a person.

(c) A violation of this section is a Class C misdemeanor, punishable by fine only.

(d) For purposes of this section:

(1) "Alcoholic beverage" means any alcoholic beverage as defined in § 55-50-102;

(2) "Alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage;

(3) "Operated" means located on a public highway or the right-of-way of a public highway, regardless if the motor vehicle is moving; and

(4) "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions.

SECTION 15. Sections 8 and 9 of this act shall be applied prospectively only and any ordinance or resolution levying taxes pursuant to Tennessee Code Annotated, Title 67, Chapter 3, Part 10, that was enacted prior to the effective date of this act, shall remain in full force and effect.

SECTION 16. Section 14 shall take effect July 1, 2017, the public welfare requiring it. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.